
SCRUTINEERS HANDBOOK

Torres Strait Regional Authority Election 2020

The Australian Electoral Commission acknowledges the Traditional Owners of country throughout Australia and recognises their continuing connection to land, waters, culture and community. We pay our respects to Elders past, present and emerging – and are committed to reconciliation in Australia.

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About this handbook

Thank you for assisting with the Torres Strait Regional Authority (TSRA) electoral process by acting as a scrutineer. You are doing an extremely important job in ensuring that Australia's proud democratic tradition of transparent elections is maintained. Transparency and integrity in the conduct of elections have, after all, been the hallmarks of Australia's and the TSRA's electoral system.

As a scrutineer, you need a clear understanding of your role, including what you can and cannot do under the law. This handbook is designed to help you, before, during and after polling day, to be as effective as possible as a scrutineer. Remember, you can play a significant part in helping to ensure, as far as possible, that every vote cast in the TSRA election counts.

What does a scrutineer do?

Candidates are not allowed to enter polling booths, except in order to vote. They are also not permitted to observe the counting of votes (the scrutiny) for elections in which they are candidates. They have the right, however, to appoint scrutineers to represent them during the polling and throughout the various stages of counting ballot papers.

As a scrutineer, you have the right to be present when the ballot boxes are sealed, when they are opened, when votes are being issued, and when the votes are sorted and counted so you may confirm the integrity of election processes on behalf of the candidate who has appointed you.

On behalf of candidates, scrutineers may observe:

- the polling,
- the preliminary scrutiny of declaration envelopes,
- the further scrutiny of all votes, and
- the counting of ballot papers

How do I become a scrutineer?

Scrutineers may be appointed by candidates to represent them during polling.

Appointments of scrutineers must be made in writing addressed to the Returning Officer. A section of the Scrutineer Undertaking form (TSRA023) can be used for this purpose. The Scrutineer Undertaking form (TSRA023) can be obtained from the Returning Officer. The candidate must sign the form and give the name and address of the scrutineer.

You must then sign the undertaking on the form stating you will not attempt to influence the vote of a voter and that you will not disclose any knowledge you may acquire concerning any voter's vote.

The form may be provided to the Returning Officer in person, or by email or fax.

The Covid-19 Scrutineer individual Risk Assessment form also needs to be completed prior to commencing work as a scrutineer and either emailed to TSRA@aec.gov.au or given to the Returning Officer.

The Scrutineers Handbook

This handbook is published by the Australian Electoral Commission (AEC), the Commonwealth agency that maintains the electoral roll and conducts federal elections, by-elections, referendums, TSRA elections and industrial and commercial elections. The handbook covers the stages for the electoral process relevant to a scrutineer for the 2020 Torres Strait Regional Authority Election.

The AEC can help you by providing information of a general nature about the role and duties of a scrutineer. However, it cannot provide you with formal or informal legal advice.

Legislative provisions appear in this handbook in a paraphrased form only, unless otherwise indicated. Scrutineers must satisfy themselves about their own legal position and, if necessary, refer to the exact provisions of the *Aboriginal and Torres Strait Islander Act 2005* (Cth) and the *Torres Strait Regional Authority Election Rules 2017* and consult their own lawyers.

Abbreviations and acronyms have been kept to a minimum. Six acronyms are used throughout the handbook:

- AEC – Australian Electoral Commission
- RO – Returning Officer
- TSRA – Torres Strait Regional Authority
- The Act – *Aboriginal and Torres Strait Islander Act 2005*
- The Rules – *Torres Strait Regional Authority Election Rules 2017*.

At the end of this handbook you will find a glossary that explains terms that may be unfamiliar to you.

How the handbook can help you

The handbook explains what you will do as a scrutineer, and how to comply with the law during the election and throughout the vote counting process.

Offences relating to the TSRA election are listed in Appendix 1. Some electoral offences apply at all times, while others apply during the specific election period.

As information can change during the life of a publication, the [AEC website](#) is the best source of up-to-date information.

Timing of the election

The Act and The Rules determine both the election timetable and electoral processes.

The key dates in the election timetable are available on the [AEC website](#).

Do's and Don'ts

Whenever you are acting in the role of scrutineer, you must wear the Identification Badge the AEC supplied to you in all polling booths and the scrutiny centre.

When taking on your role as a scrutineer, you may:

- observe all voting procedures – except the voter actually voting, unless the voter has requested assistance (see 'Assisted voting' for more information),
- object to the right of any person to vote,
- be nominated by a voter to assist with the completion of a ballot paper,
- enter and leave the polling booth at any time during voting,
- enter and leave the polling booth at any time during the counts (your place may be taken by another appointed scrutineer), and
- inspect, but not touch, any ballot paper at the count.

You must not:

- stay in a polling booth unless you have provided a completed Scrutineer Undertaking form (TSRA023),
- go into a polling booth without your scrutineer's badge,
- help with clearing voting booths or the removal of material from the polling booth,
- touch ballot papers (except if assisting a voter – see 'Assisted voting'),
- interfere with a voter, or attempt to influence them,
- reveal anything you know about how someone has voted,
- wear a badge or emblem of a political party or candidate within the polling booth,
- deliberately show or leave in the polling booth any how-to-vote card or similar direction as to how a voter should vote,
- use any device with the potential capability of image recording (including mobile phones, tablets, cameras and video recorders) in the scrutiny areas of a counting centre,
- use an image-recording device to record images of ballot papers or declaration envelopes in a polling booth or counting centre, and
- unreasonably delay or interfere with the progress of counting the votes.

Should a scrutineer fail to adhere to the above guidelines, they may be asked to leave the polling booth or scrutiny centre.

Becoming a scrutineer

This chapter gives you some essential background on who is responsible for conducting the election, the different roles of the people you are likely to meet on and after polling day, and expanded information on the appointment of scrutineers

Australian Electoral Commission

The Act requires the AEC to conduct Torres Strait Regional Authority elections.

The RO for the election is appointed by the Electoral Commissioner.

At the polling booth

At the polling booth, you are likely to come into contact with several people who have an official role.

For each election, the RO is responsible for making all necessary arrangements for taking the poll, such as providing and furnishing proper polling booths and ballot-boxes and appointing the polling officials.

Under The Rules:

- the officer in charge of each polling booth is called the Presiding Officer during polling on polling day,
- the officer in charge of a mobile polling team is called the Team Leader, and

To overcome confusion, the AEC commonly uses the term officer in charge (OIC) to refer to the Presiding Officers and Mobile Polling Team Leaders. Most other staff employed in polling booths work as Issuing Officers or Liaison Officers. Issuing Officers issue ballot papers to voters.

Liaison Officers are appointed by the RO in consultation with the TSRA under rule 12. Liaison Officers are Torres Strait Islanders or Aboriginal persons, who reside in the Torres Strait area. A Liaison Officer must be present at all times during polling at:

- a polling booth, or
- a special hospital, or
- a prison, or
- a mobile polling booth.

Liaison Officers must decide whether, on the balance of probability, the voter who has presented him or her with their Voter Card envelope, is a Torres Strait Islander or an Aboriginal person.

The Rules, 73(2)–(3)

Other than polling officials, Liaison Officers, scrutineers and voters intending to vote, no one is permitted in the polling booth during the polling, except by permission of the officer in charge.

Appointment of scrutineers

Candidates are not permitted to take part in the actual conduct of the election as provided by rule 73(1). Candidates are able to vote and distribute how-to-vote cards. Candidates may appoint scrutineers as personal representatives to observe, on their behalf, both the polling and the counting of votes (the scrutiny).

A candidate appoints a scrutineer by completing a part of the Scrutineer Undertaking form (TSRA023). The form must be signed by the candidate and give the name and address of the scrutineer. The form may be provided in person to the RO.

Scrutineers may be appointed to act as a scrutineer during both the polling and the scrutiny, or different people may be appointed for each process.

The Scrutineer Undertaking form is used to appoint scrutineers for early voting, polling day and the scrutiny. Multiple forms are required if you are scrutineering at more than one venue or on more than one occasion.

Also included on the Scrutineer Undertaking form is an undertaking that each scrutineer must sign. Undertakings scrutineers are required to make include:

- not to divulge any information with respect to the vote of a voter
- not to interfere with or attempt to influence the vote of a voter
- not to communicate with any person in the polling booth except so far as necessary in the discharge of their functions

Only one scrutineer per candidate is allowed:

- for each early voting centre
- for each mobile polling team
- for each issuing point in a polling booth on polling day
- for each officer counting the votes during the scrutiny.

Scrutineers attending any form of mobile polling must organise their own transportation.

Identification badge

When you attend a polling booth or a scrutiny centre, the AEC will supply you with a badge that identifies you as a scrutineer (the Identification Badge) and a scrutineer's lanyard. Whenever you are acting in the role of a scrutineer, you must hang the Identification Badge on the scrutineer's lanyard on the front of your body and above your waist.

You must return your Identification Badge if you leave the polling booth or scrutiny centre at any time.

During polling

In this chapter, you will find a description of what you are entitled to do during polling, and a summary of what you and others cannot do under the law. A list of offences under the law, and the penalties these incur, is at Appendix 1.

The permissible behaviour of candidate supporters and others who are likely to be in the vicinity of the polling booth, such as photographers or media representatives, is also described.

Note: When a building used as a polling booth is situated in enclosed grounds and the officer in charge, with the authority of the RO, displays a signed notice at the entrance stating that the grounds are part of the polling booth, these grounds are considered to be part of the polling booth for the purposes of an offence under Rule 150.

Rights of scrutineers

As a scrutineer, you have certain rights under The Rules, whether you are within the polling booth or performing your duties as a scrutineer elsewhere. These rights are outlined below.

Coming and going

You may enter and leave the polling booth at any time during the polling. If you leave, you can be replaced by a relieving scrutineer who has been properly appointed.

Remember, only one scrutineer for each candidate can be present at each polling booth or issuing point at a polling booth at any one time. You must return your Identification Badge if you leave the polling booth at any time.

At the sealing of the ballot boxes

You can observe the officer in charge sealing the empty ballot box and recording the seal numbers before the poll commences at the polling booth. You may also observe the sealing of the ballot box at the conclusion of any polling that extends over more than the one location or day i.e. mobile polling.

Objections

You may object to the right of any person to vote. The officer in charge must record all such objections by scrutineers.

Helping voters

You may assist any voter if they ask you and the Presiding Officer is satisfied that the voter needs assistance. You may observe and accompany the officer in charge when they are requested to assist a voter who is blind or has low vision, has low literacy skills or is otherwise incapable of marking the ballot paper without assistance. These voters may however, appoint a different person (except the Liaison Officer) to enter the voting compartment with them to mark, fold and deposit the ballot paper and envelope in the ballot box. In this case, neither the officer in charge nor the scrutineer accompanies the voter into the voting compartment.

What about other situations?

You can be present during the polling at an early voting centre.

Mobile polling teams conduct mobile polling at any time on any of the twelve (12) days preceding polling day, on polling day or on a day to which polling is adjourned.

You can be present during the conduct of mobile polling at locations including, but not limited to hospitals, prisons and remote areas. Mobile polling teams may carry how-to-vote material, but not openly display it. They must advise voters that the material is available and may distribute it at the request of a voter.

Offences by scrutineers

The Act states that The Rules can impose penalties for offences or breaches under The Rules. The Rules are specific about what constitutes an offence by a scrutineer. See Appendix 1 for more information. Penalties can involve a fine. This section summarises some of the various types of offences you need to be aware of as you perform your role as scrutineer.

If you are in any doubt about what constitutes an offence, you should seek independent legal advice.

Scrutineers may not use any image-recording device (including cameras, video recorders and camera or video-enabled mobile phones) to record images of ballot papers or Voter Card envelopes, or any other images that might identify a voter and how they have voted, in a polling booth or scrutiny centre.

Behaviour in the polling booth

A scrutineer must not interfere with a voter, or attempt to influence any voter within the polling booth. You must limit any communication you have with a voter to what is necessary for you to discharge your function as a scrutineer.

If the officer in charge considers you have committed a breach, or that you are guilty of misconduct, they may request that you be removed from the polling booth by the police or by another authorised person. You may also be removed if you fail to obey the lawful directions of the officer in charge.

You must not disclose to anyone else any knowledge you may acquire as a scrutineer about how a voter has voted.

You must not exhibit or leave in the polling booth any printed material – card or paper – that directs, instructs or is intended to influence a voter on how to vote.

You must not wear or display a badge or emblem of a candidate or political party in the polling booth.

Other offences during polling

Scrutineers and other supporters of a candidate should also be aware of various other acts and omissions that constitute an offence during an election.

The Rules, Part 7

In summary, these offences include:

- knowingly making a false or misleading statement about a voter's enrolment to them,
- marking a vote or making any other mark on any other person's ballot paper without authority,
- impersonating someone with the intention of securing a ballot paper to which the impersonator is not entitled,
- impersonating someone with the intention of voting in their name,
- fraudulently doing anything that results in a nomination paper or ballot paper being defaced or destroyed,
- fraudulently putting any ballot paper or other paper into the ballot box,
- fraudulently taking any ballot paper out of any polling booth or scrutiny centre,
- supplying ballot papers without authority, and
- interfering with or doing anything that results in the unlawful destruction, taking, or opening of the ballot boxes or ballot papers.

Other offences include:

- voting more than once in the same election, and
- defacing, mutilating, destroying or removing any kind of material displayed by or under the authority of the RO.

Other than scrutineers, candidates may have people assist them by handing out how-to-vote cards to voters. Candidate supporters, other than those appointed as scrutineers, may only enter the polling booth once - to record their own vote. There is only one

exception: when a voter who is blind, has low vision, is physically incapacitated, or has low literacy skills, nominates a Candidate supporter to help them vote.

The six metre limit

Special prohibitions apply to the area within six metres of the entrance to a polling booth, early voting centre including a pre-poll voting centre or an office of a RO, or a mobile polling location.

A person (including for example, party workers and candidate supporters) must not:

- canvass for, or solicit votes
- attempt to induce any voter not to vote for a particular candidate or not to vote at all

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- display any notice or sign (other than an official notice) relating to the election.

The general prohibition on canvassing within six metres of an entrance to a polling booth or early voting centre means that people (such as party workers and candidate supporters) who are distributing how-to-vote cards and other non-AEC notices can only hand out or display this material outside the six metre limit.

Note: Under the Rules, when a building used as a polling booth is situated in enclosed grounds and the officer in charge, with the authority of the RO, displays a signed notice at the entrance stating that the grounds are part of the polling booth, those grounds are considered to be part of the polling booth for purposes of the six metre rule.

Voting

Voting at TSRA elections is not compulsory. The AEC puts a great deal of effort into ensuring every eligible voter has the opportunity to vote. As a scrutineer, you will need to know about the voting process, including the different types of votes that can be cast and the various issues involved in the management of polling during an election. This chapter discusses these matters.

Scrutineers are in a trusted position, so it is particularly important you are aware of your legal obligation to observe the secrecy of the vote.

Remember, you must wear an official badge identifying you as a scrutineer at all times when you are in a polling booth.

Certified list of voters

Before polling begins, each issuing officer at a polling booth is supplied with a copy of the certified list of voters for the ward in which the polling booth is located. The certified list is used in issuing votes to voters enrolled for that ward.

If a voter's name is not found on the certified list, they may still cast a declaration vote. Their entitlement to vote in the election will be verified as part of the scrutiny.

Ballot papers

A voter is issued with a white, A4 sized TSRA ballot paper for the ward they are enrolled in.

Any voter who makes a mistake or 'spoils' a ballot paper before it is placed in a ballot box may receive a new one when they return the spoiled ballot paper to the issuing officer.

Pencils

Polling screens are equipped with pencils. However, a voter may mark their ballot paper with a pen if they so wish.

Methods of voting

All TSRA votes are cast as declaration votes, meaning all ballot papers are sealed within a declaration envelope. The voter makes a signed declaration on an envelope and then puts their completed ballot paper inside.

These votes are counted after polling day if the voter's entitlement to vote is verified using the information provided on the declaration envelope.

All TSRA votes are counted after polling day. No counting of votes occurs on polling night.

As a scrutineer, you will observe voters using various methods to record their votes. You should therefore be aware of the different categories and methods of voting, as the Rules differ slightly in the observation of each:

- ordinary voting;
- absent voting; and
- early voting.

Ordinary voting

An ordinary vote for the TSRA elections is a vote recorded by a voter at a polling booth / mobile polling booth within the ward they are enrolled in.

At the polling booth, the voter must answer two questions:

1. Have you voted before in this election?
2. Which ward are you enrolled in? (for persons claiming an absent vote)

Issuing officers may ask other questions to identify particular voters. If the issuing officer is satisfied with these answers, the voter receives a Voter Card, and the relevant ward ballot paper. The issuing officer initials the ballot paper and marks the name of the voter off the certified list.

The voter must then proceed alone to a voting screen and:

- in private, mark their vote on the ballot paper,

- fold the ballot paper so the vote is concealed,
- place the ballot paper in the envelope,
- present the sealed voter card envelope to the Liaison Officer present in the booth,
- answer any questions from the Liaison Officer to assist them in their decision whether the voter is a Torres Strait Islander or an Aboriginal person. The Liaison Officer will complete any records required as a result of that decision, and then hand the envelope back to the voter,
- deposit the envelope in the ballot box.

Absent voting

An absent vote for the TSRA elections is a declaration vote recorded by a voter at a polling booth / mobile polling booth outside of the ward they are enrolled in.

A voter who is away from the ward for which they are enrolled may, upon making a declaration, vote via a mobile polling team or, on polling day at any other polling booth in the Torres Strait area.

Early voting

An elector may apply in person for an early vote at the early voting centre on Thursday Island or at the AEC Cairns office on any of the grounds applicable to pre-poll voting, and cast a pre-poll vote. Alternatively, they may apply for a postal vote or cast their vote with a mobile polling team.

Scrutineers have the right to be present during the conduct of early voting.

Postal voting

You may observe the preliminary scrutiny of postal vote applications and the subsequent scrutiny, including counting of postal votes.

Voters who may be eligible for postal voting include those who will not be in their enrolled ward on polling day, are seriously ill, infirm or unable to leave work, or for religious reasons are unable to attend a polling booth. The



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conditions for entitlement to a postal vote are given in detail in Appendix 2.

Voting at mobile polling booths

Mobile polling provides the opportunity for voters who are unable to go to polling booths to vote at an election. Mobile polling services may be delivered at any place where the RO determines they may be needed, and may commence up to twelve (12) days before polling day, on polling day, or on a day to which polling is adjourned. Once determined, the places, days and times of mobile polling arrangements are published on the [AEC website](#). Mobile polling can take place at locations including, but not limited to hospitals, prisons and remote areas.

Assisted voting

Voting inside the polling booth

As a scrutineer, you may assist any voter if they ask you and the presiding officer is satisfied that the voter needs assistance. Assisted voting is available at all polling booths including areas visited by mobile polling teams, such as hospitals, prisons and remote areas.

The officer in charge may permit any voter who is blind or has low vision, is physically incapacitated, or has low literacy skills, to be accompanied by a person appointed by the voter so that the person (in accordance with the voter's wishes) can mark, fold and deposit the voter's ballot paper in the ballot box on behalf of the voter.

Where no such person is appointed, the officer in charge may perform this role in the presence of scrutineers or, if no scrutineers are present, in the presence of a polling official or another person appointed by the voter.

The officer in charge at a hospital will inform the voter of their right to be assisted in casting a vote when necessary.

In any situation where a voter requires assistance, the voter may indicate a voting intention to the officer in charge with a written statement, including a how-to-vote card.

The Scrutiny

As a scrutineer, you may be present at the checking and counting of the ballot papers after the close of polling – the scrutiny. This chapter details what you can and cannot do as a scrutineer during the counting process. It also describes the AEC’s procedures so you will know what to expect as you observe the counting of ballot papers.

What is ‘the Scrutiny’

The scrutiny involves the checking and counting of the ballot papers. All proceedings at the count are open to you. The scrutiny may be adjourned from time to time as might be necessary until the counting of the votes is complete.

The RO and staff conduct the scrutiny in two stages:

- the preliminary scrutiny of postal votes (this can occur before polling closes) and initial scrutiny of all other declaration envelopes to determine whether each voter is entitled to a vote, and
- the further scrutiny where the ballot papers admitted to the scrutiny are taken out of their envelopes and sorted into first preference piles and counted. Part of this process is to check that ballot papers are completed correctly. Any ballot papers not completed correctly are informal and are not counted.

What scrutineers do

As a scrutineer at the scrutiny, you have certain roles under the Rules. These roles are outlined below.

Counting ballot papers

You have the right to observe the counting of ballot papers. Candidates will be advised of planned scrutinies prior to commencement.

Objections

You may object to the admission or rejection of any ballot paper at a scrutiny. The officer conducting the scrutiny will then decide

whether the vote is formal or informal and mark the ballot paper as ‘Admitted’ or ‘Rejected’. The officer may reject a ballot paper as informal even if no scrutineer has objected to it.

Countersigning endorsements

Where the RO has bundled ballot papers into sealed parcels of formal and informal votes, you may countersign endorsements of the contents on any containers of ballot papers, and countersign statements setting out the number of first preference votes for each candidate and the number of informal ballot papers.

Coming and going

You may come and go during the scrutiny, provided there is never more than one scrutineer per candidate per polling official engaged in the scrutiny at any one time.

Remember, you must return your identification badge if you leave the scrutiny centre at any time.

What scrutineers must not do

During the scrutiny, you must not:

- handle ballot papers in any way, or
- unreasonably delay or interfere with the counting of votes.

While you have the right to observe all stages of the scrutiny and challenge the formality decisions made by scrutiny staff, it is the duty of the RO to ensure the election results from the polling booth are delivered in an orderly and timely way.

The Process of Scrutiny

Before Polling Closes

For postal declaration vote envelopes, preliminary scrutiny can begin on the Monday before polling day. As mentioned above, preliminary scrutiny of declaration vote envelopes determines which declaration votes are admissible and can proceed to further scrutiny. The RO will contact candidates to advise them of the times, dates and locations for this preliminary scrutiny.

At the preliminary scrutiny, the RO checks the following:

- that the signature of the voter on the postal voter card matches the signature of the voter on the application for the postal voter card;
- that the voter is enrolled (or entitled to be enrolled) for the ward;
- that the vote contained in the envelope was recorded prior to the close of the poll (which is done by checking the date the witness has signed);
- that the signature on the postal vote certificate is valid; and
- that the signature is correctly witnessed.

The RO will then separate and bundle the postal voter cards, ballot papers and envelopes from the postal votes that meet these requirements. The postal votes that do not meet these requirements will also be separated and bundled.

You may observe this process.

Preliminary scrutiny of all other types of declaration envelopes occurs after polling closes.

No declaration vote envelopes can be opened or ballot papers scrutinised before the close of the poll (this happens at further scrutiny).

On election night

No TSRA election votes are counted on polling night. All TSRA election votes are declaration votes that need to go through scrutiny to ascertain the results of polling. Candidates will be advised of planned scrutinies prior to commencement.

After Polling Day

The RO can receive postal votes up to the end of the sixth day after polling. These votes are included in the count if they were cast before 6pm on polling day and are received within six (6) days after the close of the poll. For this reason, preliminary scrutiny of postal votes is an ongoing process for up to six (6) days after polling day.

After polling day, preliminary scrutiny also starts for all non-postal declaration envelopes. This involves the RO opening ballot boxes and separating and bundling voter cards and voter card envelopes.

Further Scrutiny

Further scrutiny involves the counting of votes which happens in the scrutiny centre in the period following election night. It must begin within 13 days after polling day – but it must not start until all of the envelopes containing voters' ballot papers for the ward have been received. The RO will advise candidates of the times, dates and locations of the further scrutiny.

In conducting the further scrutiny, the RO opens all declaration vote envelopes that have been accepted for the count, including postal votes, pre-poll votes, mobile polling votes and votes cast on polling day. The ballot papers are extracted, without being unfolded or inspected, and placed in a sealed ballot box. A separate process is then undertaken to sort ballot papers into informal and formal vote piles, and then the sorting of votes into first preference piles. At the further scrutiny you can challenge the votes on the grounds of formality or informality of the ballot paper. Information about this is contained in the next chapter, *Formality of Votes*.

Formality of votes

As a scrutineer, you can challenge the admission or rejection of any ballot paper at the further scrutiny. The grounds for a challenge may be the formality or informality of the ballot paper. You therefore need to know the difference between an informal vote and a formal vote.

Stages of the scrutiny

The scrutiny of ballot papers has two stages:

- an initial formality check, where votes that do not satisfy certain criteria are excluded, and
- a subsequent examination of those votes that pass the formality check to determine which candidate has been elected.

Confirming formality

Subsection 143D(2) of The Act provides that a ballot paper is formal if:

- (a) an authorised electoral officer is satisfied that it is an authentic ballot paper; and
- (b) it indicates the voter's first preference for one, and only one, candidate; and
- (c) it does not have any identifying mark on it.

If the polling officials conducting the further scrutiny are in doubt about the formality of a ballot paper they will include them with the other informal ballot papers.

All informal ballot papers are checked by the RO, and by following the above process, the RO makes the decision on the formality of possibly contentious ballot papers.

Ballot paper formality tests

All ballot papers will be required to undergo two tests before progressing through formality checking. Failure of either of these tests will result in an informal ballot paper and no further formality checking will be required.

- Is the ballot paper authentic?
- Does the ballot paper identify the voter?

Authentic ballot papers

Generally a ballot paper will carry an official mark (watermark or printed security pattern) and the initials of the issuing officer.

However, ballot papers that do not carry these markings are not necessarily informal. They should be presented to the RO to decide on their formality.

Identification of voter

A ballot paper that has been marked in a way that could identify the voter should be presented to the RO to decide on formality.

Staff who are unsure about the formality of a ballot paper due to identifying marks should consider it informal, allowing the RO to decide on formality.

TSRA ballot papers formality guidelines

Voter's first preference

A TSRA election ballot paper is only formal if the voter has indicated their first preference for one, and only one, candidate. The voter may also place the numbers 2, 3, 4 (and so on) in the squares opposite the names of some or all of the remaining candidates to indicate their preference for them.

Alterations to numbers will not make a ballot paper informal, provided the voter's intention is clear, for example a number can be crossed out and another number written beside it.

Overwriting

If a number is overwritten in a way that makes it impossible to determine a first preference, then the ballot paper is informal.

Placement of votes

The vote can be made inside the box or beside the box/candidate name, provided the intention of the voter is clear.

Variations in handwriting

Unconventional but recognisable variations in handwriting, such as placing an upward angular stroke before the familiar vertical stroke on the number '1', should not result in a ballot paper being informal, provided the first preference is clear.

Ballot paper formality principles

There are five overarching principles that must be considered when interpreting the numbers on any ballot paper that has passed the initial two tests. They are:

- **Start from the assumption that the voter has intended to vote formally**

The assumption needs to be made that a voter who has marked a ballot paper has done so with the intention to cast a formal vote.

- **Establish the intention of the voter and give effect to this intention**

When interpreting markings on the ballot paper, these must be considered in line with the intention of the voter.

- **Err in favour of the franchise**

In the situation where the voter has tried to submit a formal vote, i.e. the ballot paper is not blank or defaced, doubtful questions of form should wherever possible, be resolved in the voter's favour.

- **Only have regard to what is written on the ballot paper**

The intention of the voter must be unmistakable, i.e. do not assume what the voter was trying to do if it's not clear – only consider what was written on the ballot paper.

- **The ballot paper should be construed as a whole**

By considering the number in each square as one in a series, not as an isolated number, a poorly formed number MAY be recognisable as the one missing from the series.

Counting the votes

The system of counting votes for the TSRA election is set out in Schedule 2A of The Act – *Method of determining the successful candidate at an election for a single member for a TSRA ward.*

The Act requires a candidate to obtain an absolute majority of first preference votes (more than 50 per cent of the formal votes) to be elected.

Firstly, all the number '1' formal first preference votes are counted for each candidate. If no candidate has an absolute majority of first preference votes, counting of votes then proceeds as outlined below.

- Step 1:** The candidates are ranked according to how many formal first preference votes they have received in the election.
- Step 2:** If no candidate has an absolute majority, the candidate who has received the fewest first preference votes is excluded and all the ballot papers held by that candidate are transferred to the remaining candidates, according to the next available preference (if any) expressed on each transferred ballot paper.
- Step 3:** The process of excluding the candidate who has the fewest votes continues until a single candidate has an absolute majority of the votes.
- Step 4:** The candidate who has an absolute majority of votes at any stage of the process described is elected.

Appendix 1: Offences

Scrutineer offences and other offences

The TSRA Election Rules describe certain offences that relate particularly to scrutineers.

Scrutineers, and other supporters of the candidate, should also be aware of various other acts and omissions that constitute an offence during the election.

Refer to The Act and The Rules for full details of electoral offences.

Offence	Penalty
<p>Communicating with any person in the polling booth except as is necessary in the discharge of the scrutineer’s functions or interfering with or attempting to influence any voter within the polling booth.</p> <p>A scrutineer who commits such a breach, or is guilty of misconduct or fails to obey the lawful directions of the officer in charge, may be removed from the polling booth by the police or a person authorised by the officer in charge</p>	10 penalty units
Disclosing any information acquired concerning the vote of any voter in a manner that is likely to enable identification of the voter	10 penalty units
Engaging in conduct that interferes with the free exercise or performance, by another person, of a political right or duty that is relevant to a TSRA election.	10 penalty units
<p>Printing, publishing or distributing or authorising to be printed, published or distributed, an electoral advertisement, handbill, pamphlet or notice without:</p> <ul style="list-style-type: none"> the name and address (not being a post-office box) of the person who authorised the electoral advertisement, handbill, pamphlet or notice appearing at the end of it; and for an electoral advertisement, handbill, pamphlet or notice that is printed otherwise than in a newspaper — the name and place of business of the printer appearing at the end of it. 	10 penalty units
Publishing, printing or distributing, or authorising to be printed, published or distributed, anything that is likely to mislead or deceive a voter in relation to the casting of their vote.	10 penalty units
Wearing or displaying any badge or emblem of a candidate or political party in a polling booth on polling day.	10 penalty units
Engaging in conduct that disrupts, or tends to disrupt, the operation of the poll.	5 penalty units
Not obeying a direction of the Presiding Officer	5 penalty units

Making or publishing a false and defamatory statement in relation to the personal character or conduct of a candidate without reasonable grounds for believing the statement to be true.	10 penalty units
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Polling booth offences

Under the Rules, the following acts are not permitted within a polling booth or mobile polling booth, or within six metres of the entrance of a polling booth or mobile polling booth:

Offence	Penalty
<ul style="list-style-type: none"> • Canvassing for, or soliciting, votes • Attempting to induce a voter not to vote for a particular candidate or not at all • Displaying any notice or sign (other than an official notice) relating to the election 	5 penalty units

Scrutineers and candidates' representatives must observe these Rules.

Under The Rules, when a building used as a polling booth is situated in enclosed grounds and the officer in charge, with the authority of the RO, displays a signed notice at each entrance stating that the grounds are part of the polling booth, those grounds are considered to be part of the polling booth for purposes of the six metre rule.

Offences under crime legislation

There are also offence provisions in the *Criminal Code Act 1995* (Cth) (the Criminal Code) and the *Crimes Act 1914* (Cth) (the Crimes Act) that are relevant to the election process.

Appendix 2: Postal and Pre-Poll Voting

Eligibility

The Rules, Schedule 2 - Grounds on which to apply for postal or pre-poll vote

(Rules 34 and 52)

The Rules state that a voter is entitled to apply for a postal vote or pre-poll vote if:

- throughout the hours of polling on polling day, the voter will not be in the ward for which he or she is enrolled,
- the voter will not, at any time during the hours of polling on polling day, be within eight (8) kilometres by the nearest practical route of any polling booth or place at which a mobile polling team is scheduled to visit (either before or on polling day) in the ward for which he or she is enrolled,
- throughout the hours of polling on polling day, the voter will be travelling under conditions that will prevent him or her from voting at any polling booth in the ward for which he or she is enrolled,
- the voter will be unable to attend a polling booth on polling day because of:
 - serious illness, or
 - infirmity, or
 - approaching childbirth.
- on polling day, the voter will be unable to attend a polling booth because he or she will be at a place (other than a hospital) caring for a person who is seriously ill or infirm or expected to give birth shortly,
- throughout the hours of polling on polling day, the voter will be a patient in a hospital and unable to vote at the hospital,
- throughout the hours of polling on polling day, the voter will be a patient at a special hospital but will be unable to have his or her vote taken at mobile hospital polling,
- because of voter's religious beliefs or membership of a religious order, the voter:
 - is precluded from attending a polling booth, or
 - for the greater part of the hours of polling on polling day, is precluded from attending a polling booth
- on polling day, the voter is serving a sentence of imprisonment, or otherwise in lawful custody or detention, and is unable to vote at mobile prison polling,
- throughout the hours of polling on polling day, the voter will be engaged in his or her employment or occupation, and
 - if the voter is an employee – will not be allowed leave of absence to vote, and
 - in any other case – the absence of the voter for the purpose of attending a polling booth to vote would likely cause loss to the person in his or her occupation.

Application for postal vote

The Rules, rule 34

An application for a postal vote must be made in writing in the approved form (TSRA002), and must:

- contain a declaration by the applicant that they are a voter entitled to apply for a postal vote, and
- be signed by the applicant in the presence of an authorised witness.

An application must not be made until after the publication in the Gazette of the notice setting the date for the TSRA election.

Completion and return

The Rules, rule 39

On receipt of the postal voting papers, which comprises a postal voter card and postal ballot paper, the voter should substantially observe the requirement to:

- show the unmarked ballot paper and unsigned postal voter card to an authorised witness;
- sign the postal voter card in the presence of the authorised witness;
- have the authorised witness sign and date the postal voter card;
- mark their vote in the presence of the authorised witness, but so that the authorised witness cannot see the vote, fold the ballot paper, place it in the envelope and seal it;
- have the postal voter card certified by an Aboriginal person or Torres Strait Islander who is an office bearer of an Aboriginal or Torres Strait Islander Corporation to the effect that the voter is an Aboriginal person or a Torres Strait Islander;

- enclose the following in the outer envelope and post or deliver it to the RO:
 - the envelope containing the ballot paper, and
 - the postal voter card

A person who is a candidate at an election must not certify a postal voter card.

Postal vote envelopes containing the ballot papers need to be received by the RO within six (6) days after polling day. The envelope containing the ballot paper must be posted on or before polling day, or can be delivered before the close of the poll to:

- the RO,
- the Presiding Officer at a Pre-poll voting centre; or
- the Presiding Officer at any polling booth.

Glossary

Australian Electoral Commission (AEC)	The independent statutory authority established in 1984 to maintain and update the Commonwealth Electoral Roll, raise public awareness and conduct elections and referendums.
Certified list of voters	The official electoral roll used to mark off voters' names. Polling officials place a mark against a voter's name when the voter is issued with a ballot paper at a polling booth, or where appropriate during early voting, to indicate that the voter has voted.
Close of rolls period	The roll closes at 5pm on the 15th day before the day of the poll.
<i>Commonwealth Electoral Act 1918</i>	The legislation governing the Commonwealth electoral process.
Declaration vote	The voter makes a signed declaration on an envelope and then puts their completed ballot paper inside. The ballot paper is counted after the close of the poll if the voter's entitlement to vote is verified using the information provided on the declaration envelope.
Returning Officer (RO)	The AEC officer responsible for conducting the TSRA election.
Early vote	A postal vote or a vote cast at a pre-poll voting centre, or via a mobile polling team in the lead-up to polling day. They are cast by voters who will not be able to get to a polling booth on polling day.
Electoral Commissioner	The officer who performs the functions of the chief executive officer of the AEC.
How-to-vote cards	Cards provided to voters by candidates showing how a candidate would like voters to fill in their ballot papers.
Informal ballot paper	A ballot paper is generally considered informal if it is not filled out correctly in accordance with the Act/Rules and the instructions on the ballot paper. An informal ballot paper cannot be included in the count.
Issuing point	The part of the polling booth where ballot papers are issued to voters.
Mobile polling team	A team of polling officials who bring the polling to the voter. They visit voters in locations including nursing homes, prisons and remote locations to enable them to vote.
Nomination form	The approved form which must be used by a candidate nominating for election.
Officer in Charge	The officer who is in charge at a polling booth. They are called:

	<ul style="list-style-type: none"> • Presiding Officers at early voting centres and polling booths on polling day, and • ‘Team Leader’ of mobile polling teams.
Penalty unit	Section 4AA of the <i>Crimes Act 1914</i> determines the dollar (\$) value of a penalty unit.
Polling Official	There are two categories of polling officials, those who are required to work in the period before polling day to assist with mobile polling and early voting, and those who are required to work in a polling booth on polling day only.
Polling Booth	A premises appointed to take the votes of voters.
Polling booth hospital	A hospital at which a polling booth is established to take the votes of voters. Polling officials may provide stationary and mobile polling services.
Voter Card / Postal Voter Card / Pre-Poll Voter Card	The AEC uses this term to describe the declaration vote envelope specific to voting on which the voter declares their entitlement to vote.
Scrutineers	People appointed by candidates to be their representatives at polling booths, or at any place at which the scrutiny of votes is being conducted. Scrutineers have the right to be present when the ballot boxes are sealed and opened and when the votes are sorted and counted so that they may check any possible irregularities, but they may not touch any ballot paper.
Scrutiny	The process of checking and counting of the ballot papers, voter cards and voter card envelopes.
Scrutiny centre	Any site at which a scrutiny or counting of votes is to be, or is being, conducted.
Silent elector	A voter who has applied to have their address not appear on the roll for reasons of personal safety or safety of their family members.
The Act	<i>Aboriginal and Torres Strait Islander Act 2005</i> – This Act establishes the Torres Strait Regional Authority, and provides for TSRA elections.
The Rules	<i>The Torres Strait Regional Authority Elections Rules 2017</i> as made under section 143G of The Act, set out the manner in which TSRA elections should be conducted.
TSRA	Torres Strait Regional Authority, as established under section 142 of The Act.